

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
COLLEEN McAVEY,

Plaintiff,

07-CIV-11181 (SCR)

-against-

ORANGE-ULSTER BOCES, JEFFREY  
SMITH, former Deputy Superintendent, JAKE  
McHALE, Principal of Flannery High School,  
and MARGUERITE FLOOD, Executive  
Director for Personnel, sued in their individual  
capacities,

**NOTICE OF MOTION  
PURSUANT TO FRCP  
12(B)(6)**

Defendants.

-----X

PLEASE TAKE NOTICE that upon the annexed declaration of Sharon N. Berlin, dated January 10, 2008, the complaint of plaintiff COLLEEN McAVEY annexed as an exhibit thereto and upon the memorandum of law submitted herewith, defendants, ORANGE-ULSTER BOCES, JAKE McHALE, and MARGUERITE FLOOD, will move before Hon. Stephen C. Robinson, United States District Judge for the Southern District of New York, at the United States Courthouse, 300 Quarropas Street, Room 633, White Plains, New York 10601, on the 15<sup>th</sup> day of February, 2008, for an order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing plaintiff's complaint in its entirety for failure to state a claim upon which relief can be granted, and granting such other and further relief as the Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to Section II(A)(3) of the Individual Practices of Judge Stephen C. Robinson, the attorneys of record for the respective parties to this action have consulted and agreed, subject to the

Court's approval, that plaintiff shall serve and file papers in opposition to the motion, if any, on or before February 1, 2008; that defendants shall serve and file reply papers in further support of the motion, if any, on or before February 15, 2008; and the motion shall be returnable on that date.

Dated: Melville, New York  
January 10, 2008

By:   
SHARON N. BERLIN (SNB 6480)

LAMB & BARNOSKY, LLP  
Attorneys for Defendants  
ORANGE-ULSTER BOCES,  
JAKE McHALE and  
MARGUERITE FLOOD  
534 Broadhollow Road, Suite 210  
P.O. Box 9034  
Melville, New York 11747-9034  
631-694-2300

To: Christopher D. Watkins (CW 2240)  
Sussman & Watkins  
Attorneys for Plaintiff  
40 Park Place, P.O. Box 1005  
Goshen, New York 10924  
845-294-3991